

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
PEDRO CRUZ,

Petitioner,

-against-

ROBERT E. ERCOL,  
SUPERINTENDENT OF GREEN HAVEN  
CORRECTIONAL FACILITY,

Respondent.  
-----X

07 Civ. 09868 (RJH) (DF)

**ORDER**

**DEBRA FREEMAN, United States Magistrate Judge:**

This case having been referred by the Honorable Richard J. Holwell, U.S.D.J., and the Court having examined the petition in this action pursuant to 28 U.S.C. § 2254 and concluded that the petition should not be summarily dismissed pursuant to Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts, it is hereby ORDERED that:

1. Pursuant to Rule 4, the respondent shall serve and file an answer or motion no later than March 24, 2008. Responding papers shall include the transcripts and records of all relevant trial and post-conviction proceedings, the briefs submitted on appeal, and such other information as may be necessary for this Court to determine whether petitioner has exhausted his state remedies.

2. Petitioner shall serve and file reply papers, if any, no later than April 23, 2008.

3. Pursuant to Rule 4, the Clerk of the Court shall serve upon the Attorney General of the State of New York and the District Attorney of New York County, by certified mail, a copy of this Order, the petition, any documents filed in support of the petition, and the form for

consent to proceed before a United States Magistrate Judge. If both parties consent to refer this case to a United States Magistrate Judge for all purposes, the consent form should be executed and returned to the Court.

Dated: New York, New York  
January 23, 2008

SO ORDERED

  
DEBRA FREEMAN  
United States Magistrate Judge

Copies To:

Hon. Richard J. Holwell  
United States District Judge

Mr. Pedro Cruz  
05-A-2229  
Green Haven Correctional Facility  
594 Rte 216  
Stormville, NY 12582